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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,261	10/17/2003	Norbert Hahn	P-US-PR-1088	4594
7590 04/28/2009				
Group Patent Counsel Black & Decker Corporation Mail Stop TW199 701 E. Joppa Rd Towson, MD 21286			EXAMINER WEEKS, GLORIA R	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 04/28/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/688,261

**Applicant(s)**

HAHN, NORBERT

**Examiner**

GLORIA R. WEEKS

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9-25 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-25 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the petition decision mailed on April 8, 2009.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 16, 2009 has been entered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 9, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Neumaier et al. (USPN 4,830,549).

In reference to claims 1, 2, 5, 9, 16 and 19, Neumaier et al. discloses a tool holder that receives as tool 5, the tool holder comprising: a tubular main body 1; a first and second pivotable locking element 5a., 26a movably mounted with respect to the main body 1, the first and second locking elements 25, 26 that define a sleeve around the main body 1, each locking element having an engaging portion 25a, 26a movable between a radially outer unlocked position and an inner locked position, in which each of the engaging portions 25a, 26a are engaged with a

retaining collar 5d (figure 1) of the tool 5; a resilient ring 29; a manually actuatable sleeve 18 mounted around the main body 1 so as to be axially movable between a first position in which the engaging portions 25a, 26a of the locking elements 25, 26 are held in the locked position, and a second position in which the engaging portions 25a, 26a of the locking elements 25, 26 are movable to an unlocked position (column 6 lines 22-32); and wherein the main body 1 defines a recess engagable by projecting portions 15, 16 of the locking elements 25, 26 to facilitate pivoting of the locking elements 25, 26 (column 6 lines 22-32).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 7, 9, 10, 12-15, 17, 18, 20-25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauterwald (USPN 5,601,388) in view of Truesdell.

Regarding claims 1-4, 6, 7, 17, 18 and 33, Lauterwald discloses a tool holder that receives as tool 10, the tool holder comprising: a tubular main body 20; an elongated locking element 50, 60 mounted on the main body 20, the locking element 50, 60 having an engaging portion 62 forward of a pivot point that permits pivoting of the engaging portion 62 into engagement with a retaining collar<sup>1</sup> 41 to define a locked position (figure 2), and an unlocked

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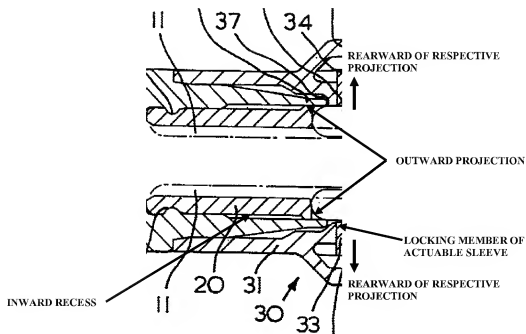
<sup>1</sup> Any of various ring like devices used to limit, guide, or secure a machine part. (American Heritage Dictionary)

position (figure 3) permitting a tool 10 to be inserted or removed from the main body 20; a manually actuatable sleeve 30 mounted around the main body 20 so as to be axially movable between a first position in which the engaging portions 50 of the locking element 50, 60 are held in the locked position, and a second position in which the engaging portions 50 of the locking element 50, 60 are movable to an unlocked position; a retaining ring 41 axially slidable with respect to the main body 20 independent of movement of the actuatable sleeve 30, and the retaining ring 41 is positioned rearward of the locking element 50, 60; and a spring member 49 that axially biases the retaining ring 41 forward into engagement with the locking element 50, 60 and a spring member 39 that biases the actuatable sleeve 30 into the locked position. The engaging portions of Lauterwald are positioned between an end of the main body distal to the forward end and the pivot point of the locking element, rather than being positioned between the forward end of the main body and the pivot point of the locking element.

Truesdell teaches a tool holder comprising: a tubular main body 10 defining a forward direction; and an elongated locking element 13 pivotably mounted at a pivot point (ends of slots 13 distal to forward end) on an exterior surface of the main body 10, the locking element 13 including a forward portion including an engaging portion 22 located between the forward end of the main body and the pivot point, wherein the engaging portion 22 is pivotably movable between a radially inner locked position (figure 2; column 3 lines 15-22) and a radially outer unlocked position. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the locking element of Lauterwald such that the engaging portions of the locking element are in a reversed position and are positioned between the forward end of the main body and the pivot point, since Truesdell teaches that such a modification would also result

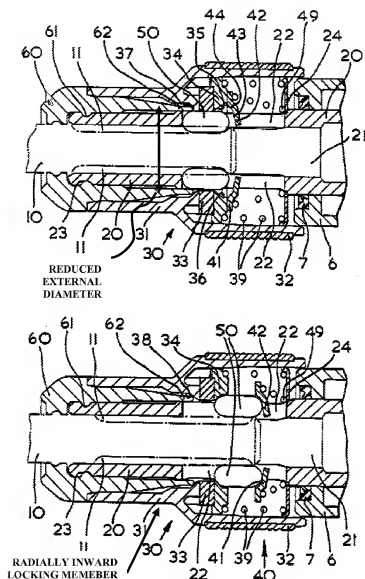
in clamping of a main body and tool within the locking element, and the selection of any of these known equivalents to secure a tool within a machine would be within the level of ordinary skill in the art.

With respect to claims 9, 10, 14, 15, 17 and 20-25, Lauterwald discloses the locking element 50, 60 as an axially elongated feature that extends forward of a forward end of the main body 20, the locking element 50, 60 having first end including an elastic portion 62 that is pivotally mounted on the main body 20, such that pivotal movement of the elastic portion 62 of the locking element 50, 60 is facilitated by engagement of the engaging portions 50 within a recess/hole 22 formed in the outer surface of the main body 20. Lauterwald further discloses a subassembly including an actuator body 34; an axially slidable retaining ring 41 rearward of the locking element 50, 60; a spring member 49 biasing the retaining ring 41; and an axially slidable actuator ring 33, wherein the locking element 50 is movably positioned between the actuator ring 33 and the retaining ring 41 (figures 2-4).



The locking element 50, 60 includes an elastic portion 62 positioned radially outward from the main body; the actuable sleeve 30 having a locking member 38 that engages the elastic portion 62 of the locking element 50, 60 to hold the engaging portion 50 in the locked position (figure 2), and in a rearward position (figure 3) the locking element 50 is movable to an unlocked position. The main body 20 includes a reduced internal diameter portion engaged with and radially outward of the locking element in the locked position, and an increased internal diameter portion. Lauterwald further discloses the locking element 50, 60 positioned such that the pivotable elastic portion 62 is rearward of the outward projection portion, and the engaging portion 50 is located forward to the retaining ring 42.

Regarding claims 12 and 13, the locking element 50, 60 of Lauterwald includes a portion positioned radially outward of the main body 20, and the actuable sleeve 30 includes a locking member radially inward of rear portion of the actuable sleeve 30, such that the locking member engages the radially outward portion of the locking element when the sleeve is in the locked position, and the locking member is radially outward of reduced external diameter portion of the locking element when the sleeve is in the unlocked position (see illustration below).



### *Response to Arguments*

7. Applicant's arguments filed January 16, 2009 with respect to claims 1, 2, 5 and 9 in view of Neumaier et al. have been fully considered but they are not persuasive.

Applicant has argued that Neumaier et al. fails to disclose locking elements pivotably mounted on an exterior surface of the main body. Examiner disagrees based on figure 1 of Neumaier et al. which illustrates the locking elements secured to the exterior surface of the main



body via collar element 17 and locking members 15 and 16. The main body is oriented within the locking assembly defined by elements 15-17, 25-28, which function as a single unit. Upon rotation of the collar/sleeve element 17, the remaining elements of the assembly respond to the rotation of the sleeve element and move relative to the main body. Sleeve element 17 of the locking assembly rests against an exterior shoulder of the main body near locking member 15 and 16 as illustrated in figure 1. Therefore, Examiner maintains the rejection of Applicant's invention in view of Neumaier et al.

8. Applicant's arguments with respect to claims 1-4, 6, 7, 9, 10, 12-15, 17, 18, 20-25 and 33 as rejected in view of Lauterwald have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/  
Examiner, Art Unit 3721

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3721

April 28, 2009